

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 94011

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-062-94

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

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Effective Date _____

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Governor's Signature

Nevada State Environmental Commission

Classification [] Proposed [] Adopted By Agency [XX] Temporary [] Emergency []

Brief description of action: Petition 94011 (LCB R-062-94) amends to NAC 445.7135, air quality operating permit fees. The fee structure is revised to establish the fees based on emissions and an annual fee for services and maintenance. This petition amended LCB file R-138-94 as adopted by the Environmental Commission on November 3, 1993.

Authority citation other than 233B: NRS 445.461 and 445.491

Notice date: April 26, May 4 and May 12, 1994

Hearing date: May 26, 1994

Date of Adoption of Agency: May 26, 1994

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 94011
LCB R-062-94**

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code Chapter 445 by the State Environmental Commission (SEC).

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 94011 was noticed 3 (three) times: April 26, May 4 and May 12, 1994 in the Las Vegas Review and Reno Gazette-Journal newspapers. The regulatory hearing was held on May 26, 1994 in Las Vegas, Nevada. At this hearing there was no public comment. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128. No comments were received from the general public regarding this petition.

2. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1. The power and mining industry were supportive of the changes proposed by this regulation. Comments were received from the Southern California Edison, Nevada Power Company, Sierra Pacific Power Company, and the Nevada Mining Association. The special concerns related to allowing more flexibility in determining emissions to be used in calculating fees. The other concern was allowing the proration of fees previously paid to the Division of Environmental Protection for air quality permits. This issue was accommodated by changes to the regulations. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128.

3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulations were adopted at the State Environmental Commission hearing on May 26, 1994 with several amendments addressing the concerns of the public and business and industry.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
 - (b) Both immediate and long-term effects.
- a. The proposed modifications to the NAC are expected to have significant, long-term and new costs on existing and future businesses. The additional costs are expected to be seen primarily in the utility industry because of the emission-based fees.
 - b. The proposed modifications are expected to have new and long-term economic costs over existing regulations on the public, because the additional costs to businesses will be passed on to consumers. The additional costs will probably be seen as increased energy bills to the public.

5. The estimated cost to the agency for enforcement of the proposed regulation.

This program will not have an economic impact upon the State's Division of Environmental Protection as all staff associated with the program implementation will be funded by the fee assessments.

6. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

There are no other state or government agency regulations which the proposed amendments duplicate.

CODIFIED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R062-94

EXPLANATION: Matter in *italics* is new; matter in **brackets** [] is material to be omitted, and matter underlined is language amended by the Commission on May 26, 1994.

AUTHORITY: NRS 445.461 and 445.491

Section 1. NAC 445.7135 is hereby amended to read as follows:

445.7135 1. The fee for an operating permit, a significant modification of a permit or a renewal of a permit for all sources is \$250 per application. An applicant must pay the entire fee when he submits an application to the director.

2. Fees based on emissions for a new or an existing source or for any significant modification to an existing source are as follows:

(a) From July 1, 1994, to and including June 30, 1995, [fees based on emissions are:

*(a) For existing sources, a fee of \$7] **the fee is \$ 3.36** per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year. [, **not to exceed 6,000 tons per year per pollutant. Emissions must be calculated using:***

(1) The emission unit's actual operating hours, rates of production and in-place control equipment;

(2) The types of materials processed, stored or combusted; and

(3) Data from a test for emission compliance which the director has validated.

(b) For any new sources or significant modifications to existing sources, a fee of \$7 per ton times the total tons of each regulated pollutant, except carbon monoxide, based on the allowable emissions for the period until the source obtains 12 consecutive months of operating data. When this data is obtained, fees must be calculated as set forth in paragraph (a) of this subsection.

3. On and after July 1, 1995, fees based on emissions are:

(a) For existing sources, a fee of \$20]

(b) From July 1, 1995, to and including June 30, 1996, the fee is \$7.25 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year. **[, not to exceed 6,000 tons per year per pollutant. Emissions must be calculated using:**

(1) The emission unit's actual operating hours, rates of production and in-place control equipment;

(2) The types of materials processed, stored or combusted; and

(3) Data from a test for emission compliance which the director has validated.

(b) For any new sources or significant modifications to existing sources, a fee of \$7.00 per ton

Petition **94011** was adopted by the Nevada Environmental Commission on May 26, 1994 as a permanent regulation and it became effective on July 1, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). A technical change was filed with the Secretary of State by the Legislative Counsel Bureau on July 21, 1994. This is LCB file R-062-94. This petition modifies section 77 of LCB R-138-93 (NAC 445.7135), also known as petition 94002 as filed with the Secretary of State on December 13, 1993. **Codified 11/21/94.**

times the total tons of each regulated pollutant, except carbon monoxide, based on the allowable emissions for the period until the source obtains 12 consecutive months of operating data. When this data is obtained, fees must be calculated as set forth in paragraph (a) of this subsection.]

(c) On and after July 1, 1996, the fee is \$9 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year.

3. To determine the fees set forth in subsection 2:

(a) Emissions must be calculated using:

(1) The emission unit's actual operating hours, rates of production and in place control equipment;

(2) The types of materials processed, stored or combusted; and

(3) Data from a test for emission compliance, continuous emission monitor, the most recent published version of US EPA publication number AP-42, or other emission factor or methods which the director has validated; or

(b) If paragraph (a) does not apply to a source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that source.

4. Annual fees for services and maintenance are as follows:

(a) From July 1, 1994, to and including June 30, 1995:

(1) For [sources] facilities which have more than 1 ton of emissions per year:

| <u>Type of Source</u> | <u>Fee per permitted source</u> |
|--|---------------------------------|
| <i>Sources within major group 49 - power</i> | |
| <i>Power generation units</i> | <i>\$2,850</i> |
| <i>Power generation related sources</i> | <i>175</i> |
| <i>Other sources within major group 49</i> | <i>175</i> |
| <i>Sources within major group 10 - mining</i> | <i>175</i> |
| <i>Sources within major group 14 and 16 - Aggregate/Concrete</i> | <i>75</i> |
| <i>Other sources</i> | <i>125</i> |

(2) For [sources] facilities which have less than 1 ton of emission per year, each facility shall pay \$350.

(b) From July 1, 1995, to and including June 30, 1996:

(1) For [sources] facilities which have more than 1 ton of emissions per year:

| <u>Type of Source</u> | <u>Fee per permitted source</u> |
|-----------------------|---------------------------------|
|-----------------------|---------------------------------|

Sources within major group 49 - power

| | |
|-------------------------------|---------|
| <i>Power generation units</i> | \$5,920 |
|-------------------------------|---------|

| | |
|---|-----|
| <i>Power generation related sources</i> | 355 |
|---|-----|

| | |
|---|-----|
| <i>Other major source within group 49</i> | 355 |
|---|-----|

| | |
|---|-----|
| <i>Sources within major group 10 - mining</i> | 355 |
|---|-----|

| | |
|--|-----|
| <i>Sources within major group 14 and 16 - Aggregate/Concrete</i> | 150 |
|--|-----|

| | |
|----------------------|-----|
| <i>Other sources</i> | 275 |
|----------------------|-----|

(2) For [sources] facilities which have less than 1 ton of emissions per year, each facility shall pay \$700.

(c) On and after July 1, 1996:

(1) For [sources] facilities which have more than 1 ton of emissions per year:

| <u>Type of Source</u> | <u>Fee per permitted source</u> |
|-----------------------|---------------------------------|
|-----------------------|---------------------------------|

Sources within major group 49 - power

| | |
|-------------------------------|---------|
| <i>Power generation units</i> | \$6,850 |
|-------------------------------|---------|

| | |
|---|-----|
| <i>Power generation related sources</i> | 425 |
|---|-----|

| | |
|--|-----|
| <i>Other sources within major group 49</i> | 425 |
|--|-----|

| | |
|---|-----|
| <i>Sources with major group 10 - mining</i> | 425 |
|---|-----|

| | |
|--|-----|
| <i>Sources within major group 14 and 16 - aggregate/concrete</i> | 175 |
|--|-----|

| | |
|----------------------|-----|
| <i>Other sources</i> | 325 |
|----------------------|-----|

(2) For [sources] facilities which have less than 1 ton of emissions per year, each facility shall pay \$750.

5. The fee for a permit for a surface area disturbance is \$450 for 5 acres or more.

[5.] 6. The fee for the modification of a facility requiring a new for a stationary source, including the location of portable equipment on a site with permitted stationary equipment, is the same fee as is required for an operating permit as set forth in subsection 1.

[6.] 7. The department shall calculate and collect all fees [for operating permits annually from the date on which the owner or operator submits and application for an operating permit to the director.

7.] based on emissions and fees for services and maintenance beginning on July 1, 1994,

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and on each July 1st thereafter.

8. Annual fees for operating permits are due and payable to the "Nevada State Treasurer, Environmental Protection" within 45 days after the date of the invoice.

9. *As used in subsection 4, "major group" means the major groups described in the "Standard Industrial Classification Manual", as adopted by reference in NAC 445.6605.*

Sec. 2. This regulation becomes effective at 12:01 a.m. on July 1, 1994.

END OF PETITION 94011 (LCB R-062-94)

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